

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEBRET MARQUIS RICHARDSON,

Defendant.

CASE NO. CR18-5094 BHS

ORDER DENYING WITHOUT
PREJUDICE DEFENDANT'S
MOTION FOR COMPASSIONATE
RELEASE

This matter comes before the Court on Lebet Marquis Richardson's ("Richardson") motion for humanitarian and compassionate release. Dkt. 903.

On July 7, 2020, Richardson filed the instant motion seeking compassionate release under 18 U.S.C. § 3582(c)(1)(A). *Id.* On July 16, 2020, the Government responded and opposed the motion for numerous reasons, including the fact that Richardson has failed to establish that he exhausted his administrative remedies. Dkt. 907.

Because exhaustion is a prerequisite to relief, *see United States v. Delateur*, CR18-5364BHS, (W.D. Wash. May 6, 2020), the Court denies Richardson's motion without prejudice. A federal court may modify a term of imprisonment after it has been imposed

1 when “the defendant has fully exhausted all administrative rights to appeal a failure of the
2 Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days
3 from the receipt of such a request by the warden of the defendant’s facility, whichever is
4 earlier.” 18 U.S.C. § 3582(c)(1)(A). Although district courts are split on whether this
5 provision is a jurisdictional requirement for relief, this Court has concluded that an
6 individual seeking compassionate relief must first request such relief from the warden at
7 the institution of incarceration. After such notice, the warden must either deny the
8 request or fail to respond within 30 days. Then, the Court may consider a motion for
9 relief. Richardson has failed to allege or establish that he has first sought compassionate
10 relief from the warden at his institution of incarceration. Therefore, the Court denies his
11 motion without prejudice for failure to exhaust.

12 The Court also notes that Richardson is still represented by counsel and directs
13 Richardson to contact his counsel of record for assistance in seeking relief.

14 Dated this 23rd day of July, 2020.

15
16
17 

BENJAMIN H. SETTLE
United States District Judge